

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

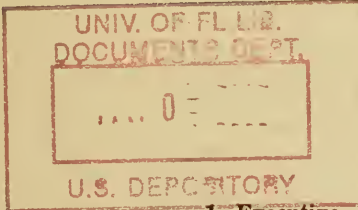
FOR THE

PHOTO-ENGRAVING INDUSTRY

AS APPROVED ON DECEMBER 23, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 2213 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 933 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Building.

Approved Code No. 180

CODE OF FAIR COMPETITION
FOR THE
PHOTO-ENGRAVING INDUSTRY

As Approved on December 23, 1933

BY
PRESIDENT ROOSEVELT

Executive Order

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Photo-Engraving Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act, and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby adopt and approve the report, recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved, subject to the following conditions:

1. That the maximum hours of work specified in Article III of the Code and/or any other provisions of the Code relating to hours of work, shall not be construed as a minimum work day or work week;

PROVIDED, that if at any time in any locality, employees engaged in any trade or craft, through their chosen representatives, express by written request to their employer or employers, a desire to share available work with bona fide resident competent mechanics in their particular trade or craft, the number of hours may be adjusted by mutual agreement;

PROVIDED, further, that if local agreement proves impossible within fifteen (15) days after such request, the question may be appealed by either party, to a local Board set up by mutual agreement of the parties, or to the Labor Board established in Article VIII of the Code.

2. That my approval of the Code as a separate Code is limited to a period of three (3) months from the effective date thereof, and the Administrator is hereby authorized, after such public notice and hearing as he may prescribe, to require the Photo-Engraving Industry to operate under the Code of Fair Competition for the Graphic Arts Industries.

PROVIDED, however, that if the Administrator so orders, no changes in any provisions of the Code of Fair Competition for the Photo-Engraving Industry other than appropriate modifications of the definitions and of the Administrative provisions of said Code, are authorized by this Order of Approval.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator

THE WHITE HOUSE,
December 23, 1933.

DECEMBER 22, 1933.

The PRESIDENT,
The White House.

SIR: During the week of September 18, hearings were held on codes that had been presented for various branches of the Graphic Arts Industries. It was the suggestion of the Administration that all the Graphic Arts be brought under one basic code, with the autonomous administration to which they could lay proper claim.

The photo-engraving branch of the industry is essentially a service branch, selling its product to commercial printers. It was reluctant to enter into any arrangement whereby its customers would have a measure of control over the conduct of its business. For reasons which are outlined in the Report which has been made to me by Deputy Administrator Lindsay Rogers, I have deemed it desirable to present for your approval a separate code for this branch of the industry. I recommend, however, that your Executive Order make two conditions of approval of the Code, which will be more specifically referred to later.

EXTENT OF THE INDUSTRY

In the year 1931, according to the Census of Manufacturers, there were 617 trade photo-engraving establishments employing an average of 10,095 wage earners at an average annual wage of approximately \$2,500. The total value of production during this year was in excess of \$56,000,000. The employees of all branches of the Graphic Arts Industries are highly skilled and of all these groups the skill required of the Photo-Engraving journeyman is certainly not the least. Recognition of this condition is implied in the fact that the annual wage above mentioned compared with an average for commercial printers in 1931 of only \$1,585.

It has not been possible to separate unemployment in photo-engraving separate from unemployment in commercial printing as a whole. During the month of August 1933, after the general adoption of the President's Reemployment Agreement, the seasonally adjusted index of employment in the Book and Job branch of the Graphic Arts was 67.6 (based on 100 for 1929) which indicated a reduction in the number of fully employed wage earners of approximately one third ($\frac{1}{3}$) from the 1929 level. There is no reason for inferring that photo-engraving presents an exception to this condition. Figures presented at the public hearing by union representatives of the International Photo-Engravers Union, which embraces more than 90 percent of the photo-engravers workers in this country, conclusively showed that unemployment in this branch of the industry was if anything worse than in the graphic arts as a whole. In the month of June, 1933, 3,143 photo-engraving journeymen, representing 36.9 percent of union membership, were totally

unemployed, and 3,529, representing 41.4 percent of union membership, had only part-time employment.

HOURS AND WAGES

The Code in its present form provides a 40-hour week as a maximum for productive employees. There are few establishments at present operating over this limitation. The application of codal provisions cannot, therefore, be expected to reduce unemployment to any appreciable extent. It is to be hoped, therefore, that voluntary work-sharing programs will be instituted, and continued where now prevalent, to take up the slack and to ameliorate to some extent the conditions now prevailing among this highly skilled group of workers.

A basic minimum wage rate of \$1.00 per hour for journeymen photo-engravers working during the day and of \$1.10 for night work is specified in this Code. This represents substantial agreement between the industry and the representative of organized labor. The provisions for nonproductive employees conform essentially to those adopted in codes previously approved.

TRADE PRACTICES

The provisions regulating trade practices appear to be intelligently designed to promote fair competition in this industry and involve no unsound economic policies.

ANALYSIS OF CODE

The Code as recommended may be summarized as follows:

Article I states the purposes of the Code.

Article II sets forth various definitions.

Article III provides a standard work week of 40 hours with certain exceptions.

Article IV sets minimum wage scales.

Article V prohibits the employment of persons under 16 years of age in this industry, embodies the mandatory provisions of Section 7(a) of the National Industrial Recovery Act, and contains other provisions relating to general labor conditions.

Article VI establishes a standard basis of cost accounting.

Article VII constitutes a Code Authority and gives it certain powers.

Article VIII establishes a joint Labor Board to consider and pass upon any alleged violations, disputes, or nonobservance of the Labor Provisions of this Code.

Article IX regulates trade practices.

Article X provides for the modification of this Code in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act.

Article XI specifies that no provision in this Code shall be so applied as to permit monopolies or monopolistic practices; and

Article XII fixes the effective date of the Code.

CONDITIONS OF APPROVAL

I recommend that your Executive Order specify that the normal work week of forty hours is not to be construed as a minimum; suggest to the Industry the desirability of reducing the work week below forty hours when this can be done by agreement between representatives of the employers and representatives of the employees; and empower the Labor Board, which the Code sets up, to act as an agency in using its good offices to effect proper adjustments below the maximum of forty hours per week.

The desire of the Graphic Arts Industries to have the basic code cover Photo-Engraving has already been referred to. The present code does not cover privately owned photo-engraving establishments (that is, operated in connection with commercial printing establishments and not making photo-engravings for sale). Such privately owned establishments are covered under the Graphic Arts Code. Conflicts of jurisdiction are bound to arise.

Under these circumstances, I recommend that your Executive Order approving this code make, as a condition of approval, the stipulation that the separateness of the code for the industry will be reconsidered at the expiration of a three months' period. When this period elapses the Code will be continued as a separate code or its provisions will be incorporated unchanged in the Graphic Arts basic code. The industry agrees to this condition of approval. I am making the same recommendation in respect of the separate code for Electrotyping and Stereotyping and in respect of the Graphic Arts Code, since it may turn out that certain industries and groups are improperly under this Code.

FINDINGS

The Administrator finds that:

(a) The Code complies in all respects with the pertinent provisions of Title I of the National Industrial Recovery Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and

(b) The American Photo-Engravers Association imposes no inequitable restrictions upon the membership therein and is truly representative of the Photo-Engraving Industry; and

(c) The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policies of Title I of the National Industrial Recovery Act.

I recommend that the Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.



Digitized by the Internet Archive
in 2011 with funding from

University of Florida, George A. Smathers Libraries with support from LYRASIS and the Sloan Foundation

CODE OF FAIR COMPETITION

FOR THE

PHOTO-ENGRAVING INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act this Code is established as a Code of Fair Competition for the Photo-Engraving Industry, and its provisions shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "photo-engraving industry" as used herein includes all plants engaged in the production or partial production of photo-engraved plates for sale or for the use and benefit of others than the person, firm, or corporation that produces such plates, and all persons, firms, or corporations that purchase photo-engraved plates for purposes of resale.

The term "member of the industry" includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

The terms "Act" and "Administrator" as used herein means respectively Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

Population for the purposes of this Code shall be determined by reference to the latest Federal Census.

ARTICLE III—HOURS

1. No employee, or member of the industry, engaged in the production of photo-engravings shall be permitted to work in excess of forty (40) hours in any one week, or eight (8) hours in any twenty-four (24) hour period, except as hereinafter provided. The total number of hours worked in any twenty-four (24) hour period shall be continuous except for lunch periods of not less than thirty minutes and not more than one hour.

2. When necessary, overtime shall be permitted, but no person shall work more than a total of 520 hours in any consecutive 13 weeks; provided, that when, due to the special character of the work, or when suitable help is unavailable, overtime shall be permitted in

excess of the maximum hours herein provided. Overtime shall consist of all work performed in excess of the current daily schedule of working hours, and maximum weekly hours and shall be paid for at not less than time and one half of the employee's regular rate; for work on Sundays and customarily observed holidays, at not less than double time.

3. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers in this industry, exceeds the maximum permitted herein.

4. The provisions of this article shall not apply to outside salesmen and persons employed in a managerial or executive capacity, who receive more than \$35.00 per week, excepting those engaged in the production of photo-engraving; or to emergency maintenance and repair men, janitors, drivers, and delivery men, provided that such employees shall not be permitted to work in excess of 44 hours per week.

ARTICLE IV—WAGES

1. No journeyman of five (5) years or more experience, and no worker of more than three (3) years experience who regularly performs journeymen's duties, shall be paid at less than the rate of \$1.00 per hour for hours worked between 8 A.M. and 6 P.M.; nor shall any such employee be paid less than \$1.10 per hour for work performed regularly between the hours of 6 P.M. and 8 A.M. In no instance shall the foregoing be applied in a manner to reduce the present hourly rate paid to any employee. It is specifically understood that the foregoing provision is intended to establish only minimum and not maximum wage requirements.

2. The ratio of apprentices shall be not more than one apprentice to three journeymen regularly employed, provided that this provision shall not apply to apprentices employed on December 1, 1933. The minimum wages for apprentices shall be based upon length of experience as follows: First year, 30¢ per hour; second year, 40¢ per hour; third year, 50¢ per hour; fourth year, 65¢ per hour; fifth year, 80¢ per hour. All apprentices employed by employers in this Industry shall be registered with the Code Authority.

3. Employees not covered by Sections 1 and 2 of this article shall be paid at not less than the following rates: \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; \$14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; \$12.00 per week in towns of less than 2,500 population. No errand or messenger boy shall be paid less than 80% of the minimum wages specified in this section for the applicable area.

ARTICLE V—GENERAL LABOR CONDITIONS

1. No person under sixteen years of age shall be employed in the industry. No person under eighteen years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health.

2. In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

3. No employer shall reclassify employees or duties of occupations performed or engaged in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

4. No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, or insurance, or fire protection, than are imposed by this Code.

5. Nothing in this Code shall be construed or applied to supersede or interfere with existing agreements arrived at by bona fide collective bargaining, unless the same are revised by mutual consent of the contracting parties.

6. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

7. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within sixty days after the effective date of this Code.

8. A placard containing all the provisions of this Code relating to hours, wages, and employment shall be posted in a prominent place in the workroom of each establishment operating under this Code.

ARTICLE VI—COSTS

1. The basis of estimating and pricing in the photo-engraving industry shall be the Standard Scale for Photo-Engravings, Form H, and the Standard Scale for Color Process Plates, Form G, which scales were in effect August 1, 1932, and prior thereto; or such revisions thereof as may from time to time be approved by the Code Authority and the Administrator.

2. The principle of pricing shall be one price to all customers for like services and like conditions of production and costs.

3. Every photo-engraving establishment shall maintain the Standard Cost Finding System and Standard Accounting System approved by the American Photo-Engravers Association and by the Administrator; or systems comparable therewith when approved by the Code Authority and the Administrator.

4. Selling below the cost of production shall be a violation of this Code, provided that the producer may sell below his own cost to meet competition by a producer who does not violate the Code.

5. The term "cost of production" as used in this Code shall include all expenses of manufacturing, distribution, administration and financing incident to the conduct of business, ascertained in accordance with the Accounting and Cost Finding Systems provided in Section 3 of this article, and the wages, salaries of proprietors, partners, and stockholders shall be the wages and salaries paid for like services and under like conditions, but in no case less than the standards provided in this Code.

ARTICLE VII—ADMINISTRATION

1. There shall forthwith be constituted a Code Authority consisting of five (5) persons, to be selected in the following manner: four members shall be selected by the Executive Committee of the American Photo-Engravers' Association; one member shall be selected by the Executive Committee of the Employing Photo-Engravers' Association of America.

2. In addition to membership as above provided, there may be three (3) members, without vote, to be appointed by the Administrator to serve without expense to the Industry.

3. Each trade association, directly or indirectly, participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

5. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be

liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

7. The Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove any action taken by the Code Authority.

(a) To insure the execution of the provisions of this Code and provide for the compliance of the industry with the provisions of the Act.

(b) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry.

(f) To secure from members of the industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(g) To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

(h) In the absence of cost data and pending the compilation of such data in all photo-engraving establishments, to prescribe regulations for determining the cost of production in each establishment, based upon that establishment's own actual expenses, for the purpose of enforcing Section 4 of Article VI.

(i) To designate which regional agency, or agencies, shall have jurisdiction over complaints involving unfair competition arising between members of the industry located in different districts.

ARTICLE VIII—LABOR BOARD

A Labor Board to consist of one member selected by the American Photo-Engravers' Association, one member selected by the Employ-

ing Photo-Engravers' Association of America, and one member selected by the International Photo-Engravers' Union of North America shall consider and pass upon any alleged violations, disputes, or nonobservance of the labor provisions of this Code. All decisions of the Labor Board shall, if unanimous, be final. In the event that no agreement is reached the matter shall be referred to the appropriate governmental agency.

ARTICLE IX—TRADE PRACTICE RULES

1. Estimates made upon work done by another photo-engraving concern for the purpose of a check estimate shall only be furnished when the estimator has access to all copies and specifications involved in the original order.

2. Photo-engravers who secure an order on a competitive-bid basis may be required by the Code Authority, upon request of any unsuccessful bidder, to file their specifications and prices with the Code Authority so that it may determine whether any infraction of this Code has been committed.

3. The granting of cash discounts in excess of 2%, or for payment later than the 15th day of the month following date of invoice, shall constitute a violation of this Code.

4. The secret payment or allowance of rebates, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or extending to certain purchasers special services or privileges not extended to all purchasers under like terms or conditions, shall constitute a violation of this Code.

5. No member of the industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party without the knowledge of such employer, principal, or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising, except so far as such articles are actually used for commercial bribery as herein above defined.

6. Offers, secret or otherwise, to furnish photo-engravings or other products of the photo-engraving industry free of charge or below cost to influence the sale of other products or services shall constitute a violation of this Code.

7. Offers, secret or otherwise, to furnish other products or services free of charge or below cost to influence the sale of photo-engravings or other products of the photo-engraving industry shall constitute a violation of this Code.

8. Inducing breach of contracts or agreements, espionage, imitation of trade names, or enticement of employees for the purpose of injuring a competitor shall constitute a violation of this Code.

9. No member of the industry shall publish advertising (whether printed, radio, display, or of any other nature), which is misleading or inaccurate in any material particular, nor shall any member, in any way misrepresent any goods (including, but without limitation, its use, trade mark, grade, quality, quantity, origin, size, sub-

stance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

10. No member of the industry shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

11. No member of the industry shall attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services, provided that nothing in this section shall be construed as preventing any employer from otherwise offering or giving employment to any person in the employ of another; and provided that nothing in this section shall prevent any employee from offering his services to a competitor, nor preventing any employer from employing the employee of another member of the Industry where the initiative in such change is taken by the employee.

12. Willful or malicious defamation of competitors or the disparagement of competitors' products, policies, equipment, or personnel, shall constitute a violation of this Code.

ARTICLE X—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

2. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE XI—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 180.
Registry No. 504-1-04.

UNIVERSITY OF FLORIDA



3 1262 08582 8092